



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/587,667

06/08/2007

Michael Gilge

10191/4866

8476

26646 7590 11/26/2008

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

TREAT, WILLIAM M

ART UNIT

PAPER NUMBER

2181

MAIL DATE

DELIVERY MODE

11/26/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/587,667	Applicant(s) GILGE, MICHAEL	
	Examiner William M. Treat	Art Unit 2181	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2181

1. Claims 14-28 are presented for examination.
2. Applicant's arguments filed 10/9/2008 have been fully considered but they are not persuasive. See the following rejection of applicant's claims.
3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 14-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilge (DE 101 53 484 A1) in view of Martin (Local Area Networks).
5. The reasons for rejecting claims 14-26 over Gilge (DE 101 53 484 A1) in view of Martin (Local Area Networks), in the examiner's previous action, continue and are hereby incorporated by reference.
6. In the examiner's judgment what applicant has done is apply a known technique to improve a known device to yield predictable results. According to MPEP 2143 (EXEMPLARY RATIONALES (D)) when making a rejection based on such a rationale, the examiner must first articulate a finding that the prior art contained a base device upon which the claimed invention can be seen as an improvement. Applicant makes this point in paragraph [0009] of their specification. "In particular, the signal processors or a subset of the signal processors are linked to one another via the network having a star-shaped topology. It is thereby possible to exchange data between individual signal processors, in particular all signal processors being able to communicate with one another at the same time. Because of that, it is possible to implement the system

Art Unit: 2181

described in German Patent Application No. **DE 101 53 484** using a plurality of processing devices and an evaluating device, coupled to the processing devices, in a simple and cost-effective manner.”

7. It could easily be argued that if one looks at Fig. 2, one sees the invention of claims 14, 16, and 22-26: a data gathering/data processing device for video/audio signals, comprising: a plurality of signal processors (46, 48), and an evaluation device (72) configured to analyze output of at least a subset of the signal processors, the evaluation device and the at least a subset of the signal processors each forming a link in a network have (*sic*) a star-shaped topology. Note that the signal processors (46, 48) **link** the audio and visual sensors to the digital lines (68, 70) which connect to the central point or hub of the star shaped network (i.e., the evaluation device (72)) which **links** the signal processors (46, 48), the storage device (74), and the digital network (36). Fig. 1 shows how one can assign two signal processors to one audio/video connection. However, a real weakness of the star-shaped network of Fig. 2 is that the evaluation device must not only evaluate data but balance network traffic, record network data, perform network error checking and correction, adapt to increased workload from additional devices, be reprogrammed to meet new communication standards, etc. This is a significant workload for one device requiring an expensive processor which must be reprogrammed and/or replaced to adapt to changing conditions resulting in a high-cost product which is less competitive commercially.

Art Unit: 2181

8. There exists a known technique (for example, a backbone Ethernet switch which can act as the central point of a star-shaped network or a backbone Ethernet hub which can act as the central point of a star-shaped network) to improve such a device.

9. Martin taught LAN's have been used to implement alarm and security systems (p. 8) so there is motivation to use a LAN. In fact, Ethernet is now the most pervasive communications technology in use today. On pages 192 and 193 Martin discusses LANs based on wiring closets which is relevant to applicant's situation where applicant, to market security systems, is faced with the task of wiring buildings. Martin teaches that, "in many cases, the best solution to local area network wiring is to create a star-wired configuration". On those pages he depicts an Ethernet LAN configured as a star network with the network acting as the backbone of the system depicted. He also depicts a backbone Ethernet hub which forms a smaller, star-shaped network which permits, potentially, five processors to communicate with each other and with the rest of the Ethernet network. The examiner also takes Official Notice of the fact that at the time of applicant's filing of his invention there existed backbone Ethernet switches which could act as the central point of a star-shaped network and which could connect that network to a digital network such as the Internet. For most Ethernet applications the switch had replaced the hub at the time of applicant's invention because of the greater processing capabilities of the switch coupled with a dramatic drop in the cost of switches.

10. Use of, for example, a backbone Ethernet switch to replace the evaluation device (72) as the central point of the star shaped network of Fig. 2 offers significant

Art Unit: 2181

advantages for the invention depicted in Figure 2. First, a significant workload is lifted from the evaluation processor (72) while still providing all the connectivity of the system of Fig. 2. The switch can balance network traffic, provide access recording devices for all processors, perform network error checking and correction, adapt to increased workload from additional devices, be inexpensively replaced or have the software updated by the manufacturer to meet new communication standards, etc. This permits a less expensive processor to be used as the evaluation device and/or more sophisticated evaluations to be done using the freed processing power. Because Ethernet technology is so pervasive new products are frequently coming to market with enhanced speed and processing capabilities for less cost ultimately lowering the overall system cost for applicant's product. Ease of installation of a small system with graceful growth as the system evolves, ease of reconfiguration and maintenance, and high reliability also argue in favor of using a backbone Ethernet switch as the central point in the star network in place of the evaluation processor (72) in Fig. 2. One of ordinary skill would have readily recognized that the substitution of a conventional backbone Ethernet switch for the evaluation processor (72) as the central point of the star network of Fig. 2 would have yielded predictable results and one of the results would have been an improved system.

11. Applicant's claims 20 and 21 mention an housing and which elements of applicant's invention are either internal or external to the housing. This differentiation does not represent patentable subject matter. Otherwise, anyone capable of creating an electronics cabinet could create an invention by merely leaving one or more

Art Unit: 2181

elements outside of the cabinet and any patent applicant received would be worthless. Also, incorporating all elements into a package to be delivered as a standalone system to an unsophisticated customer means that customer need only be concerned with a few connections, etc. and can still have a rather sophisticated system. Also, situating the switch in a system externally would mean the system could easily have a key component upgraded to provide higher processing speeds and greater switching capabilities without altering the basic product container. These are all motivations for such housing configurations that one of ordinary skill would readily recognize.

12. The examiner has explained that applicant has applied a known technique to improve a known device in a predictable manner. He has explained his finding that the prior art contained an appropriate base device upon which the claimed invention can be seen as an improvement, his finding that the prior art contained a known technique that is applicable to the device, his finding that one of ordinary skill would have recognized that applying the known technique to the base device would have yielded predictable results and an improved system. The fact that the technique was known and the results were thoroughly predictable is further attested to by the fact applicant has no detailed drawings related to the network and how it would be implemented using hub, switch, Ethernet backbone, etc. nor does the disclosure present such information. There is only a single, simple figure accompanied by a limited description.

13. If applicant is unfamiliar with the examiner's presentation of the case for obviousness, the examiner would suggest applicant secure a copy of the latest version of the MPEP which reflects the changes made since the KSR decision.

Art Unit: 2181

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Pidgeon ("How Ethernet Works") makes clear at the time of applicant's invention backbone Ethernet switches and their use in star-shaped networks was well-known.

16. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

17. Any inquiry concerning this communication should be directed to William M. Treat at telephone number (571) 272-4175.

Art Unit: 2181

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/William M. Treat/
Primary Examiner, Art Unit 2181